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DAVEL COMMUNICATIONS GROUP, INC.

Operating subsidiaries
Telaleasing Enterprises, Inc. and DavelTel, Inc.

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P.O. Box 727
601 West Morgan
Jacksonville, IL 62650
217-243-4391 (voice)
217-243-6016 (fax)

Legal Division

August 25, 1997

Federal Communications Commission
Chief Enforcement Division Common Carrier Bureau - Stop 1600A
Room 6008
2025 M Street, N.W.
Washington, DC 20554

Federal Express

Re: Comment
CC Docket No. 96-128

Dear Sirs:

Please accept for filing in CC Docket No. 96-128 the enclosed two copies the the Comment of Telaleasing Enterprises, Inc.

Sincerely,

Theodore C. Rammelkamp, Jr.
Senior Vice President & General Counsel

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of	)	
	)	CC Docket No. 96-128
Implementation of the	)	
Pay Telephone Reclassification	)	
and Compensation Provisions of the	)	
Telecommunications Act of 1996	)	

<u>COMMENTS OF TELALEASING ENTERPRISES, INC. ON REMAND ISSUES</u>

Theodore C. Rammelkamp, Jr.
General Counsel
Telaleasing Enterprises, Inc.
601 West Morgan
Jacksonville, IL 62650
217-243-4391

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COMMENTS OF TELALEASING ENTERPRISES, INC. ON REMAND ISSUES

I. **INTRODUCTION**. Telaleasing Enterprises, Inc. submits these Comments in response to the *Public Notice*[1] issued by the Commission on August 5, 1997 seeking comment to supplement the record on issues remanded to the Commission on July 1, 1997 by the United States Court of Appeals for the District of Columbia Circuit ("the Court") in *Illinois Public Telcom.*[2] Telaleasing Enterprises, Inc. ("TEI") is a wholly owned subsidiary of Davel Communications Group, Inc. (Nasdaq "DAVL"). TEI is a private payphone owner and payphone service provider ("PSP"). TEI, one of the largest PSP's in the United States, owns and operates approximately 18,800 payphones located in 30 states and the District of Columbia.

II. **SUMMARY OF POSITION.** The payphone is a sophisticated and integrated service provided to the public. The payphone has evolved into a complex and efficient instrument for providing the consumer a wide variety of choices for quick and reliable access to the

[1] Pleading Cycle Established For Comment on Remand Issues in the Payphone Proceeding, *Public Notice*, DA 97-1673 (rel. Aug. 5, 1997) (*Public Notice*).

[2] *Illinois Public Telecommunications Ass'n v. FCC*, Docket 96-1394, slip op. (D.C. Circuit, July 1, 1997) (*Illinois Public Telcom*).

switched public telecommunications network. Callers can deposit coin or call collect or use a calling card or a pre-paid card to make either a local call or a long distance call. They can access the carrier of their choice, call 800/888 subscribers, make free emergency calls and get operator assistance. The instrument is accessible to all including the physically handicapped. The customer expects all of these choices and services which, in many cases, are required by either state or federal regulation. While it may be mechanically possible to unbundle some of these services into specialized instruments, it is not what the public expects nor what the manufacturers of instruments produce nor what is permitted by applicable regulation. Because of the tight interrelationship of the many services provided by the payphone, it is neither logical nor fair to parse out elements of the general costs of operation in determining which costs are applicable to which call types. For example, the instrument as a practical matter must, and in some states by regulation is requied to, receive its dial-tone from a LEC and typically, in recent years, is charged a flat-rate for this service. Since the dial-tone enables all calls, it is appropriate to allocate this cost to each call made from a payphone. The same problems of allocation of costs to call types apply to equipment, servicing, maintenance and other line items. There are some instances, such as excise taxes, coin collection and repair parts where the applicable cost can be identified as peculiar to the coin call. TEI has analyzed its costs on this basis and determined that the cost of a local coin call is approximately 1.06¢ higher than the cost of a coinless call. Because the underlying costs of all payphone calls are very similar, the deregulated local coin rate is an appropriate surrogate for other payphone calls.

TEI has experienced a substantial increase in the number of dial-around calls since the Commission entered its *Payphone Order, infra,* on September 20, 1996 in which the Commission determined that the average number of such calls was 131 per month in the industry. For the first half of 1997 TEI experienced an average of 163 such calls per month per payphone. The trend noticed by TEI is borne out by an extensive industry-wide study by the APCC's *SMDR Project, infra* which showed the average to be 152 calls over the last 11 months of 1996. Since as discussed herein TEI's analysis shows the underlying cost of the coin and coinless calls to be substantially similar, TEI recommends no adjustment of the 35¢ surrogate rate and recommends that the Commission adjust the interim flat-rate compensation by multiplying that rate by the 152 monthly calls revealed in the comprehensive APPC, SMDR Project. However, if the Commission believes that the underlying cost data merits a reduction to comply with the Court remand, TEI's data suggest that adjustment should be 1.06¢, or from 35¢ to 33.94¢. Without adjustment the monthly per phone rate would be $53.20 (35¢ x 152) and with adjustment $51.59 (33.94¢ x 152).

The *SMDR Project* reveals that the allocation of the expenses among the carriers based on toll revenues may be substantially unfair and that the toll revenues are not substantially related to the number of calls attributable to each carrier. TEI recommends that the IXC's be assessed responsibility for payment in proportion to the number of access code and 800 subscriber calls which they generate if that information can be made available. A primary objection to retroactive adjustment is the administrative complications of adjusting payments already made. Most of the IXCs have not paid their share of interim compensation and those that have, have done so through the National Payphone Clearing House. Retroactive adjustment for those who have met their obligation is not too difficult as an administrative matter since the necessary records documenting the ANIs are maintained by the National Payphone Clearing House. As to those not paying, there is no adjustment required other than to pay an increased or lesser amount.

III. **COURT DECISION.** The Communications Act of 1934 as amended by the Telecommunications Act of 1996 ("Act") requires at § 276(b)(1)(A)[3] that the Commission "establish a per call compensation plan to ensure that all payphone service providers are fairly compensated[4] for each and every completed intrastate and interstate call using their payphone." The Commission in the *Payphone Order*[5] and *Reconsideration*[6] implemented this directive. The Commission determined that deregulation of the local coin rate would accomplish fair compensation for sent-paid local coin calls and directed deregulation of this rate.[7] The Court concurred that the *Act* granted the Commission jurisdiction over intrastate local coin rates and that a market-based compensation scheme was an appropriate mechanism for exercising its authority.[8] The Commission set the default rate for interim compensation for subscriber 800 and access code calls (collectively, "dial-around calls") at the prevailing deregulated local coin rate of 35¢,[9] reasoning that this was the best available

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[3] 47 U.S.C. § 276(b)(1)(A).

[4] In keeping with its stated goal to have the market set the compensation amount the Commission has defined fair Compensation as where there is a willing buyer and a willing seller at a price agreeable to both. *Payphone Order*, infra, ¶ 52.

[5] *Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996* (CC Docket No. 96-128), FCC 96-388 (rel. Sept. 20, 1996) (*Payphone Order*), recon., FCC 96-439 (rel. Nov. 8, 1996) (*Reconsideration*).

[6] *Id.*

[7] *Payphone Order* ¶ 56

[8] *Illinois Public Telcom.* at 12, 13.

[9] The Commission found that the in the five states where local coin was deregulated the market had established a 35¢ rate in four. *Payphone Order* ¶ 56.

surrogate for determining appropriate compensation.[10] The Commission reasoned that since the costs of originating all calls from a payphone are similar, the deregulated coin rate was the best information available for determining a compensatory, market-based rate for all calls, including dial-around calls.[11] The Court held that the Commission had failed to "justify tying the default rate to local coin rates"[12] because the record was "replete with evidence that the cost of local coin calls versus 800 and access code calls are not similar"[13] and that the Commission "failed to respond to any of the data showing that the costs of different types of payphone calls are not similar."[14] In particular the Court noted that the costs of any coin call was apt to be higher than any coinless call because of the costs of the coin equipment and collecting the coins. Further, the Court noted that the network cost of a local coin call was likely to be higher than that of a dial-around call because the PSP bears the burden of both originating and terminating a local call while the cost of terminating a dial-around call is borne by the IXC. TEI believes that the Commission's original finding that the cost of originating all types of calls from a payphone are similar will be supported by this proceeding and the closer examination directed by the Court.

IV. DEFAULT RATE FOR COMPENSATION OF SUBSCRIBER 800 AND ACCESS CODE CALLS.

A. *What are the Differences in costs to the PSP of originating subscriber 800 and access code calls on the one hand and local coin calls on the other hand?*

1. The fact that the IXC must pay a termination cost on a dial-around call should not be a consideration in allocating costs among the various types of calls. Any termination charges paid by an IXC are simply not an expense chargeable or attributable to the originating PSP in computing the cost of either a dial-around or a local coin call. Further, the Court seems to reason that the flat-rate LEC bill for local service, which brings the dial tone to the payphone, is higher because it has imbedded in it charges for both origination and termination on the local call which are not applicable to the dial-around call. In fact, the flat-rate LEC bill is properly a cost attributable

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[10] *Payphone Order* ¶ 70

[11] The Commission stated that "[i]f a rate is compensatory for local coin calls, then it is an appropriate compensation amount for other calls as well, because the costs of originating the various types of payphone calls are similar." *Payphone Order* ¶ 70.

[12] *Illinois Public Telcom* at 16.

[13] *Id.* at 14.

[14] *Id.* at 15

to all call types since it is the provision of dial-tone from the LEC that enables all calls, including dial-around calls.[15] To illustrate by an example, a payphone that was utilized for only dial-around calls would clearly have the entire LEC bill attributed to those calls regardless of where calls terminated and the calls could not have been provided without the LEC provided dial-tone.

2. The payphone is an integrated unit and the servicing of the phone requires many functions in addition to collection of the coin. It is neither fair, because of state regulation, nor practical to attempt to unbundle most of these costs for the purpose of allocating expenses to various types of calls.

   a. A PSP payphone consists of many components including a pedestal or wall mount, case, handset, keypad, coin mechanism, ringer, hook switch and a smart board which enables the phone to perform many of the functions of the Central Office and access the local and long distance network. Which of these components should be allocated to dial-around calls and which to coin calls? All of the elements of the payphone are necessary for completing all types of calls, coin or coinless, except the coin mechanism and ringer[16] which in most

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[15] TEI recognizes that this reasoning does not apply to a measured service environment if the LEC adds an incremental charge for a local coin call but not for a dial-around call; however, TEI does not believe the use of measured service is significant. First, while most of the RBOCs and some other LECs maintain measured service tariffs for payphone lines, they are rarely used, at least by TEI, because they result in much higher costs except on phones that have high long distance and very low local traffic. In excess of 90% of TEI's payphones subscribe to flat-rate tariffs. Second, the typical measured service tariff has a minimum payment of about 80% of the flat-rate charge and only adds incremental charges for local coin calls above a specified level of usage.

[16] The ringer enables the payphone for incoming calls. The Commission determined that § 276(b)(1)(A) was not intended to apply to incoming calls because PSPs could block them at their discretion. *Reconsideration* ¶ 14. In fact that option is not available in many states and the requirement that the PSP provide incoming call capability is typically required by state regulation without provision for compensation for these calls. Some states such as North Carolina, Florida and Maryland allow incoming calls to be blocked on a particular payphone only upon application to their Public Utility Commission supported by an affidavit or statement from local law enforcement that the calls are creating a nuisance or enabling criminal activity, e.g. *NC Utilities Commission Rule R13-5(m)*. TEI believes that the average number of incoming calls on its payphones is 4.5 per month.

cases are required by state regulation.[17] Further, a typical new payphone installation costs TEI about $2,000.00. A coin mechanism provided for replacement costs only about $28.00 and a ringer $14.00, a minuscule percentage of the total cost. In fact the payphone is not provided nor used in unbundled form. It is typically purchased as a unit from a manufacturer and placed in the field and maintained by the PSP in compliance with applicable state regulation.

b. TEI maintains and services it 18,800 payphones with trained technicians who work out of 18 regional division offices. Typically a technician visits each phone hefor which he is responsible at least once every 15 days, more often if a phone needs repair. His duties include maintaining the correct programming of rate files in the phone, making sure a current directory is available, cleaning the phone, collecting the coin, placing test calls to ensure proper interface with the network and maintaining a current faceplate on the phone as required by state and federal regulation. The rate files programmed into the phone ensure that callers can place access code calls and 800 subscriber calls as required by state and federal regulation. The directory contains access code numbers and numerous subscriber 800 numbers in addition to local numbers and in most jurisdictions is required to be maintained with the phone.[18] A clean phone surely attracts both coin and coinless customers with the same effect.[19] The test calls ensure the functionality of all types of calls. The information on the faceplate contains information on how to place all types of calls, with special attention, mandated by state regulation, to making sure the customer knows she can make an access code call without charge and, in most states, an 800 call

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[17] e.g. The Maryland Public Service Commission requires in its Regulations published on each certificate it issues for the installation of a payphone at *Regulation #5 for Equipment Requirements* dictates that "All COCOTs must be capable of accepting nickels, dimes and quarters."

[18] e.g. *NC Utilities Commission Rule R13-5(q)* recites that the provider "shall at all times maintain a current and complete local directory at each PTAS location."

[19] e.g. *Rule 25-24.515(12) of the Florida Administrative Code* requires that the PSP shall periodically review the cleanliness of each instrument and ensure that at all times 95% of its payphones are clean.

without putting coin in the phone.[20]

3. TEI has allocated all of its cost line items excluding income taxes and plus an allowance for cost of capital at 9% on a per call basis over all calls based on its actual experience for the first six months of 1997 in order to determine which costs are susceptible to allocation based on call type. This allocation over all calls is as follows:

Line Item	**¢ per call**	**percent**
Telephone Bills	7.20¢	23.54%
Commissions	4.34¢	14.19%
Service and Collection	1.66¢	5.43%
Maintenance Parts	0.45¢	1.47%
Network Costs	5.14¢	16.80%
Property & Excise Taxes	0.60¢	1.95%
Overhead	5.97¢	19.52%
Depreciation	2.99¢	9.77%
Cost of Capital	2.24¢	7.33%
Total	**30.59¢**	**100.00%**

4. As discussed above, while the operation of the payphone is not generally susceptible to unbundling, TEI upon analysis recommends that there are a few instances where rational adjustment to these costs should be made to account for the differences in handling local coin calls versus dial-around calls.

   a. Telephone Bills for LEC services, as discussed ¶ IV-A-1, are typically at a flat-rate for local service which is a prerequisite for all

[20] e.g. *Rule 25-24.515(5) of the Florida Administrative Code*. A few states such as North Carolina, permit a charge equal to the local coin rate for access code and 800 calls. *NC Utilities Commission Rule R13-4(a)(5)*.

types of calls[21] and there is virtually no impact on this bill which is dependent on whether a call is a dial-around call or a local coin call. See fn. 14. TEI recommends that this item be allocated equally among both types of calls.

b. Commissions are paid by TEI as a percentage of gross revenue or net revenue attributable to the payphone and are not a function of call type; therefore TEI recommends that this item be allocated equally among both types of calls.

c. Service and Collection, as discussed at ¶IV-A-2-b and as the name of the line item implies, includes costs associated with providing service and routine maintenance on the payphones and collecting coins. Although there is difficulty in determining exactly what portion of these costs are attributable to collecting and processing coin and correcting coin jams, based on its experience TEI concludes that 50% more of these costs are attributable to coin related items and recommends reducing this item by .83¢ before allocation to dial-around calls.

d. Maintenance Parts costs primarily relate to all calls, but coin mechanisms are an item that can be identified as related to the coin calls. Based on its experience TEI has determined that 17.7% of the cost of maintenance parts relate to coin mechanisms and recommends reducing this item by .08¢ from .45¢ to .37¢ before allocating such costs to dial-around calls.

e. Network Costs are the costs TEI incurs for accessing and utilizing the long distance network which is uniformly required of TEI's payphones by applicable state regulation of service requirements.[22]

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[21] Many states have requirements that the payphone subscribe to a LEC line. Most severe is North Carolina which provides that "All PTAS instruments . . . must be connected to the telephone network through PTAS lines furnished by the local exchange telephone company. Except as specified in Rule 13-6, connection through any other facilities or systems is prohibited." *NC Utilities Commission Rule R13-2(a)*. More typical is Maryland which requires that "all COCOTs shall be able to access all interexchange carriers and complete local and long distance calls in Maryland." *Maryland Regulations published on each certificate it issues for the installation of a payphone at item #4 for Rates and Charges.*

[22] e.g. *Rule 25-24.515(9) of the Florida Administrative Cod* provides that each payphone "must be connected as provided in the pay telephone access tariff offered by the local exchange company."

Since TEI is required to provide these services the costs are included in the per call allocation; however since none of the costs are attributable to either dial-around or local coin calls, TEI recommends that this item be fully allocated to all calls without adjustment.

f. Property and Excise Taxes. TEI is required to pay revenue based excise taxes on local coin revenue. The IXCs pay such taxes on the dial-around traffic and TEI pays no excise taxes on dial-around calls and for this reason proposes that this item be reallocated by the amount of such taxes. Based on its records TEI has determined that 25% of the cost this item relates to excise taxes on local coin traffic and recommends reallocating this item by reducing it by .15¢ from .60¢ to .45¢ before allocating such costs to dial-around calls.

g. Overhead, is inherently attributable to all types of calls. Overhead includes such items as management salaries, office and clerical expenses. TEI has begun to incur some additional expenses directly related to the need to track and collect compensation on dial-around calls and anticipates that some of these expenses will increase. Also, directly attributable to the increase in dial-around numbers has been the expense incurred in updating the payphone programming to accommodate the new 888 access code, but at this point is not able to identify these additional costs with precision. TEI recommends that this item be allocated equally to both types of calls.

h. Depreciation expenses include depreciation on the payphone equipment only which as discussed above is inherently allocable to all calls. TEI recommends that this item be allocated equally to both types of calls.

i. Cost of Capital is computed at 9% on the payphones which TEI believes is a reasonable market-based rate in the industry. This expense is not more applicable to one type of call than another. TEI recommends that this item be allocated equally to both types of calls.

5. Based on the foregoing allocations TEI believes that the cost of originating a dial-around call is 29.53¢, or 1.06¢ less than the 30.59¢ cost of originating a local coin call due to the differences in Service and Collection costs of .83¢, the difference in Maintenance and Collection costs of .08¢ and the difference in excise taxes of .15¢.

B. *Whether and how should the cost differences between the call types affect a market-*

based compensation amount? If the compensation amount were directly market based, the Commission would not be required to utilize a surrogate as it did in the Payphone Order and there would be no need to analyze the underlying costs of each type of call. However once a surrogate is found with a similar cost structure, TEI believes that the it is fair to examine the underlying costs and make adjustment accordingly.

C. *Is the local coin rate, subject to an offset for expenses unique to those calls an appropriate per call compensation rate for calls not compensated pursuant to contract or other arrangement, such a subscriber 800 calls and access code calls?* TEI believes the market would quickly set the correct rate for fair compensation for dial-around calls if PSPs were allowed to charge for access code and subscriber 800 calls by requiring coin to be deposited in the payphone based on a market rate. TEI's payphone equipment is able to charge different rates for different duration calls. Based on field observation TEI suspects that access and 800 calls tend to be of meaningfully longer duration than local coin calls. Under the current rules in most states, TEI cannot charge coin for these calls, let alone increment the charges for duration. TEI looks forward to a fully deregulated market where the price of all calls will be market based. However, until then under the present system TEI is mandated by TOSCIA[23] to provide equal access and subscriber calls at all of its payphones but in most jurisdictions is not allowed to charge even the local coin rate for such calls. Until the restraints of this type of regulation are removed the best method for approximating the § 276(b)(1)(A)[24] mandated fair compensation will require either a cost plus a fair rate of return analysis or the use of surrogates. The problem with cost plus rate of return as a method for determining fair compensation is that there is seldom agreement over costs in a complex regulatory environment, as evidenced by this proceeding, and never a consensus on fair rate of return. The deregulated, competitive market quickly and effectively sets a fair rate of return absent monopoly or other distortion. Therefore, when the Commission can find a deregulated, market based surrogate it should be used. The coin rate in the five deregulated states seems to be a good measure[25] of that rate. Whether or not the deregulated local coin calls are a valid surrogate depends on whether or not the costs for providing the dial around calls and the local coin calls have a similar price structure. Based on TEI's data and foregoing analysis the underlying costs appear to be very similar.

V. INTERIM COMPENSATION PLAN.

[23] Telephone Operator Consumer Services Improvement Act ("TOCSIA") Pub. L. No. 101-435, 104 Stat. 986 (1990) (codified at 47 U.S.C. § 226).

[24] 47 U.S.C. § 276(b)(1)(A).

[25] may be too low

A. *Compensation for Subscriber 800 and Access Code Calls During the Interim Period.*

1. In the *Payphone Order* the Commission determined the proper amount of interim compensation at $45.85 per pay phone by multiplying the 35¢ surrogate rate times the number of call which it found to be 131.[26] Since that finding the number of such calls has increased. TEI's average number of compensable calls has been 163 per phone per month for the first six months of 1997. The number of such calls is steadily increasing. The APPC in its *SMDR Project*, an extensive industry wide study, found for the last 11 months of 1996 there was an average of 152 such calls per phone, per month.[27] Further the SMDR Project shows a trend of increase in the number of these calls which corresponds to TEI's own experience. However, since the *SMDR Project* represents the most comprehensive study over an extended period of time, TEI recommends that the number of calls be set at 152 until the end of per call compensation and that the amount of per call compensation be set at 33.94¢ which is the deregulated local coin surrogate rate reduced for the cost difference of 1.06¢ revealed in TEI's analysis. This would result in flat-rate interim compensation of $51.59 per phone per month.

2. TEI believes that allocation of the flat-rate compensation among the carriers based on toll revenues is flawed because the total toll revenues do not appear to bear much relationship to the total number of calls being routed to a particular carrier. The SMDR Project shows that carriers responsible for a small percentage of the monthly flat-rate interim compensation are in some cases responsible for a much greater percentage of the access code segment of those calls. The fairer method of allocation would be to allocate the flat-rate interim compensation based on the relative percentage of calls. This could be done among all carriers if suitable data can be provided.

3. Given the problems disscussed below with compliance by the IXCs to this point, the Commission may wish to consider extending the period of flat-rate interim monthly compensation until it can be ascertained that there is adequate assurance that per-call compensation can be fairly administered.

B. *Retroactive Adjustments to Interim Compensation Levels and Obligations.*

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[26] *Payphone Order* ¶56

[27] The Numbers are In, Haledjian, Gregory J., *Perspectives*, August 1997 Vol. 5, No. 8. (*SMDR Project*).

1. The harsh fact is that retroactive adjustments has been facilitated by the refusal of most of the IXCs to pay their aliquot share of the flat-rate interim dial around compensation as ordered by the Commission. Of the 24 IXCs in the pool 13 did not pay TEI their fourth quarter 1996 obligation and these 13 were joined by 4 more in refusing to pay the 1997 first quarter obligation in spite of demand by TEI for payment. All of those paying, paid through the National Payphone Clearing ("NPCC") House. Therefore retroactive adjustment for those who have met their obligation is not to difficult as an administrative matter since the necessary records documenting the ANIs are maintained by the NPCC. As to those not paying, there is no adjustment required except for prompt payment. Since there appear to be few administrative problems, any adjustment should be retroactive to the effective date of the *Payphone Order*.

2. The failure to pay promptly could have serious consequences for less profitable PSPs if not promptly dealt with. For example Sprint's unpaid first quarter of 1997 obligation to TEI is $249,727 and that of Worldcom, $128,964. Based on the failure of most of the IXCs to pay the flat-rate compensation, TEI fears that monitoring and collecting the correct amount of per call compensation in the second phase will be even more problematic. For this reason it urges the Commission to establish a formal system for monitoring this process.

VI. CONCLUSION As can be seen from the data provided in this comment and the *SMDR Project*, Congress, in addition to moving the telecommunications industry toward a free market, also attempted to correct a substantial inequity in the enactment of § 276)b)(1)(A). Since 1992 the average number of access dial-around calls on payphones has increased from approximately 15[28] to at least the 39 revealed in the SMDR study. Much of this increase has been due to the migration of 0+ calls to access code calls to the detriment of profitability of the PSPs. In the same period, TEI has experienced a reduction of as much as 25% of its gross revenues per payphone in spite of an increase in local coin calls. TEI has remained profitable by operating its own IXC subsidiary to carry a significant portion of its payphone long distance traffic. As TEI's cost analysis demonstrates, there is no profit in a 25¢ local coin call if the underlying costs are around 30¢. While the quick adjustment of this imbalance where the local coin rate has been deregulated validates the Commission's reliance on the deregulated rate for a surrogate, it does not change the fact that it is apparent that the ever diminishing 0+ payphone traffic has been subsidizing the local coin rate for PSPs. These 0+ calls have been replaced by dial-around calls from which no revenue to the PSP is provided in spite of the underlying costs associated with them. The major IXCs with the disproportionate power to market their 800 access calls have skimmed this cream off of

[28] The number on which the TOSCIA compensation was based.

the payphone revenues without providing just compensation, *The Telecommunications Act of 1996* itself applied some urgency to this matter in requiring the Commission to complete its work and have a plan in place by November 7, 1996. Because of the uncertainty in the industry and the continued erosion of revenues we urge the Commission to act with firmness and dispatch in resolving this matter.

Respectfully Submitted

Theodore C. Rammelkamp, Jr.
General Counsel
Telaleasing Enterprises, Inc.
601 West Morgan
Jacksonville, Illinois 62650
217-243-4391